

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: PROTEGRITY CORPORATION
AND PROTEGRITY USA, INC., PATENT
LITIGATION

MDL No. 2600

**CONSOLIDATION AND CASE
MANAGEMENT ORDER UPON
TRANSFER PURSUANT TO 28 U.S.C. §
1407(A)**

Now that the JPML process is complete, the Court issues this consolidation and case management order. This order supersedes all prior consolidation and case management orders that were issued in the related cases discussed below.

CONSOLIDATION OF RELATED CASES

1. The Court has already found that these cases are related cases under Civil Local Rule 3-12:

- a. 3:14-cv-02588-JD
- b. 3:14-cv-03151-JD
- c. 3:14-cv-03423-JD
- d. 3:14-cv-04283-JD

2. Other cases have been transferred to this Court pursuant to the Judicial Panel on Multidistrict Litigation's order of February 6, 2015, or because they are tag-along actions as defined in Rule 1.1(h) of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation.

3. Pursuant to Rule 42(a) of the Federal Rules of Civil Procedure, the Court now consolidates all these cases into Case No. 3:15-md-02600-JD for all pretrial proceedings before this Court. All filings and submissions from here on should be captioned: "In re: Protegrity

Corporation and Protegrity USA, Inc., Patent Litigation” under the 3:15-md-02600-JD case number.

4. If a related action is subsequently filed in or transferred to this district, it will be consolidated into this action for all pretrial purposes. This order will apply to every such related action, without a further order of the Court. A party that objects to consolidation, or to any other provision of this order, must file an application for relief from this order within ten (10) days after the date on which the party’s counsel receives a copy of this order.

5. This order is entered without prejudice to the rights of any party to apply for severance of any claim or action, for good cause shown.

MASTER DOCKET AND CAPTION

6. The docket in Case No. 3:15-md-02600-JD will constitute the master docket, and the file in that action will be the master file for every action in the consolidated action.

7. When a pleading applies only to some, but not all, of the member actions, the document must list the docket number for each individual action to which the document applies immediately under the master caption. Any document not identified in that way will be presumed to apply to all member cases.

8. The parties must file a Notice of Related Cases pursuant to Civil Local Rule 3-12 whenever a case that should be consolidated into this action is filed in, or transferred to, this District. If the Court determines that the case is related, the Clerk of the Court will:

- a. file a copy of this order in the separate file for such action;
- b. serve on plaintiff’s counsel in the new case a copy of this order;
- c. direct that this order be served upon defendants in the new case; and
- d. make the appropriate entry in the master docket (Case No. 3:15-md-02600-JD).

9. If there are any disputes about whether a new action should be related to this consolidated action, they must promptly be brought to the Court’s attention or any objection may be deemed waived.

DATE AND AGENDA FOR INITIAL CASE MANAGEMENT CONFERENCE

10. The initial case management conference will be held on **Wednesday, April 1,**

1 **2015, at 1:30 p.m.** before the Honorable James Donato in Courtroom 11, 19th Floor, United
2 States District Court, 450 Golden Gate Ave., San Francisco, California.

3 11. Counsel should be prepared at the conference to suggest procedures that will
4 facilitate the expeditious, economical, and just resolution of this litigation. In addition, items on
5 the agenda will include the filing of a consolidated amended complaint, amendment of other
6 pleadings, a proposed discovery plan, the appointment of one or more experts under Federal Rule
7 of Evidence 706, and a timetable for anticipated motions. Counsel should confer and seek
8 consensus to the fullest extent possible. Plaintiffs' counsel must be prepared to inform the Court
9 whether they intend to file a consolidated amended complaint, and if so, by what date.

10 12. Each party represented by counsel must appear at the initial case management
11 conference through its lead attorney who will have primary responsibility for representing the
12 party in this litigation. To minimize costs and facilitate a manageable conference, parties with
13 similar interests may, to the extent practicable, arrange to have an attending attorney represent the
14 party's interest at the conference. A party will not, by designating another party's attorney to
15 represent that party's interest at the conference, be precluded from other representation during the
16 litigation, nor will attendance at the conference waive objections to jurisdiction, venue, or service.

17 13. In a similar vein, the Court expects that parties with similar interests -- in other
18 words, the parties on the same side of the "v." -- will consolidate all filings and submissions as
19 much as possible, including for the joint case management statement, which will be due on
20 **Wednesday, March 25, 2015**. The goal is to avoid burying the Court in multiple versions of
21 largely identical filings. Because the Court is ordering maximum consolidation of all filings, no
22 party will be allowed at any time in the case, including before the jury, to refer to that
23 consolidation as evidence of collusion or cooperation by the parties involved.

24 **DEFENDANTS' RESPONSE DEADLINE AND STATUS OF DISCOVERY**

25 14. Defendants are granted an open-ended extension of time for responding to the
26 complaint(s) -- or a consolidated complaint -- pending further order of the Court. In addition,
27 pending the initial case management conference and further orders of the Court, any outstanding
28 discovery proceedings are stayed and no discovery shall be initiated.

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1 attorney-client privilege or the protection afforded by the attorney work product doctrine, and any
2 such cooperative efforts shall in no way be used against any plaintiff by any defendant or against
3 any defendant by any plaintiff.

4 **IT IS SO ORDERED.**

5 Dated: February 25, 2015

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8 JAMES DONATO
9 United States District Judge
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United States District Court
Northern District of California